

IN THE DRAWINGS:

Two new sheets of drawings are submitted as "Drawing Replacement Sheets" of Figures 1 and 3 along with the corrected "Annotated Sheet Showing Drawing Changes." The Annotated Sheets reflect the addition of reference numbers 44 and 58 to Figures 1 and 3, respectively, and the elimination from Figure 3 of reference numerals 56 and 57.

Remarks

After careful consideration of the outstanding Office Action, this application has been amended accordingly, and favorable reconsideration on the merits thereof is at this time respectfully requested.

Turning first to the various objections presented by the Examiner with respect to the drawings beginning at page 2, paragraph 1, the "contact point 58" has been designated by the latter reference numeral in Figure 3. Accordingly, this objection has been rendered moot.

The objection with respect to reference numerals 56 and 57 has also been rendered moot by deleting each from Figure 3 of the drawings.

The final objection concerns the arrow from reference numeral 44 (Office Action, page 3, paragraph 3). The lead line from reference numeral 44 now correctly identifies the "gap" intended.

The Examiner also rejected claims 4, 6 and 11 under 35 U.S.C. 112, second paragraph" because of the lack of proper antecedent basis for the limitation "the piston." The "piston" has been included in new independent claim 1, and thus there is proper antecedent basis therefor in each of retained claims 4 and 6.

With respect to claim 11, the "the" preceding "compressed air" has been deleted and the expression has been changed to read "in which one of compressed air and fluid flow," etc., thereby rendering the objection moot.

Turning to the merits of the retained claims, the subject matter of claims 2 and 3 has been incorporated into independent claim 1.

In the outstanding Office Action claim 2 was rejected "under 35 U.S.C. 102(b) as being anticipated by Relich et al." (5,115,662), whereas claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Relich et al.

patent in view of the patent to Sniady (4,121,447). Irrespective of the particular statutory grounds thought available to the Examiner for the latter rejections, presently amended claim 1 clearly distinguishes over the combined teachings of Relich et al. and Sniady.

In the rejection of claim 2 the Examiner identifies "a biasing device (O-ring 78)," "an actuator (electromagnetic means 70)" and thereafter suggests in conjunction with the rejection of claim 3 that using "a piston actuator for the purpose of moving the fingers" would be obvious in view of Sniady. Therefore, by the Examiner's description and utilization of the prior art, it is readily apparent that the stripper assembly would include but a single O-ring or biasing device 78 and in lieu of the electromagnetic means 70 of Relich et al. "a piston" following the Sniady teaching. Thus, both the "scope and content of the prior art" has been resolved by the Examiner pursuant to Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966).

However, independent claim 1 "at issue" requires (1) "a resilient O-ring (20) for biasing the tips (34) of the fingers (12)," etc., (2) "a piston (14, 54) within the housing (32)," etc., and (3) the fingers (12) "being mounted upon a resilient O-ring (42) for self-aligning with the cut edge of the can on the return stroke of the punch." Obviously a comparison of the "combination" taught by the prior art and applied by the Examiner markedly lacks one of the three elements recited in amended claim 1 and clearly the "differences between the prior art and the claims at issue" are ascertained and are self-evident.

Having thus combined the two teachings of the prior art in the manner in which the Examiner has done and having not rendered obvious the subject matter of amended independent claim 1 (limitations "(1)" through "(3)" noted

above), clearly the allowance of claim 1 thereover is in order and would be most appreciated.

In view of the foregoing, upon the allowance of claim 1, the allowance of the remaining claims of record depending directly or indirectly therefrom is considered proper and would be most appreciated.

The undersigned has made a bonafide effort to place this application in clear condition for allowance. Therefore, if for any reason the Examiner considers proceeding in any other fashion than by way of forwarding Applicant's counsel a Notice of Allowability or a Notice of Allowance, the undersigned would appreciate a telephone call on an expedited/urgent basis in order that a personal interview can be conducted with the Examiner. The undersigned will make every effort to accommodate the Examiner's scheduling.

Once again, the single independent claim of record clearly avoids the application of 35 U.S.C § 103(a), and thus the formal allowance of this application at an early date would be most appreciated.

Very respectfully,

DILLER, RAMIK & WIGHT

By: 

Vincent L. Ramik, Reg. 20,663

Merion Square Suite 101
7345 McWhorter Place
Annandale, Virginia 22003

(703) 642-5705 - telephone
(703) 642-2117 - fax
drwpatentlaw@aol.com



Fig.1.



